

**REMARKS/ARGUMENTS**

Reconsideration and withdrawal of the rejections of the application and consideration and entry of this paper are respectfully requested in view of the herein remarks, which place the application in condition for allowance.

**I. STATUS OF THE CLAIMS AND FORMAL MATTERS**

Claims 1-99 are currently pending and are rejected in the Office Action mailed on July 20, 2011. Claims 2, 8-10, 32-34, 52, 77, 83-85 and 99 were previously cancelled. Claims 1, 4-7, 11-25, 28, 51, 54, 72, and 79 are hereby amended and claims 3, 26-27, 53, and 78 are hereby cancelled.

Support for the claim amendments can be found throughout the application as filed, for example at page 8, lines 13-21 (paragraph [0048] of the application published as 2007/0281814 (“as published”)).

**II. REJECTIONS UNDER 35 U.S.C. § 112**

Claims 26 and 53 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Office Action asserts that dependent claims 26 and 53 introduce limitations broader than the parent claim.

As indicated in the listing of claims above, claims 26 and 53 have been cancelled making moot the § 112 rejection.

Claims 3, 37 and 78 are rejected for failing to introduce new limitations to the parent claim. In particular, the Office Action asserts that claims 3, 37, and 78 recite, “said first material entirely surrounds said second material” which is found in the parent.

Applicants note that no such language is found in claim 37. Applicants believe the Examiner intended to indicate the rejection of claim 27 for the reasons stated above. This response is based upon this understanding. If incorrect, Applicants request that the Examiner provide clarification of the rejection.

As indicated in the listing of claims above, claims 3, 27, and 78 have been cancelled making moot the § 112 rejection.

Reconsideration and withdrawal if the § 112 rejections is requested.

### III. REJECTIONS UNDER 35 U.S.C. § 103

Claims 1, 3-4, 25-28, 51, 53-54, 71-76, and 78-79 are rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. Patent No. 4,099,422 to Cicognani (“Cicognani”) in view of U.S. Patent Application Publication No. 2004/0226641 to Akiyama et al. (“Akiyama”).

Applicants respectfully traverse for at least the following reasons.

Independent claims 1, 25, 51, and 72, as amended, each recite, *inter alia*:

[A] toothed belt...comprising:  
...a body...

**said body comprising as main elastomeric material a copolymer formed from a diene and from a monomer containing nitrile groups in a percentage between 33 and 49 weight percent with respect to the final copolymer.**

Accordingly, embodiments of the present invention include a toothed belt comprising a body comprising nitrile groups between 33% and 49% by weight with respect to the final copolymer.

Applicants submit none of the cited references make such a disclosure.

Cicognani suggests a toothed belt for use in oil with a body comprising a main elastomeric component of epichlorohydrine polymer. *Cicognani*, column 2, line 17. The

reference is silent as to any nitrile content in the belt.

Page 4 of the Office Action notes that Cicognani fails to explicitly disclose the construction of the claimed resistant inserts. Page 5 of the Office Action asserts that Akiyama discloses the presently claimed insert construction. Assuming arguendo that the disclosure of Akiyama is as asserted, the reference fails to cure the deficiencies in Cicognani, namely **nitrile groups in a percentage between 33 and 49 weight percent with respect to the final copolymer.**

Applicants respectfully submit that none of the cited secondary references disclose a belt body with **nitrile groups in a percentage between 33 and 49 weight percent with respect to the final copolymer** as claimed. Knutson (U.S. Patent No. 6,945,891), is cited in numbered paragraph 5 on page 13 of the Office Action to disclose tensile carbon fibers coated with an RFL composition comprising a latex comprising HNBR. However, the reference is silent on **nitrile groups in a percentage between 33 and 49 weight percent with respect to the final copolymer** as presently claimed.

Numbered paragraph 6 on page 14 of the Office Action cites to Achten (U.S. Patent No. 7,396,884) to disclose an adhesive base for reinforcing materials containing HNBR wherein the nitrile group is in the range of 10-50 wt. percent, preferably 15-39 wt. percent. The Office Action goes on to assert that it would have been obvious to modify Cicognani to include the nitrile groups taught by Achten for the purpose of insuring adhesion of the resistant inserts to the belt.

However, nothing in the reference suggests a concentration of nitrile groups of 33-49% by weight, which is a specific range within the much broader disclosed range of 10-50% in Achten. There is no suggestion that a composition containing 33-49% by weight nitrile groups

would exhibit superior performance in any application.

Furthermore, the suggested use of HNBR is Achten is for “an adhesive base for untreated fabrics and reinforcing materials.” *Achten*, column 1, line 17-19. Nothing in the reference discloses or renders predictable the use of **nitrile groups in a percentage between 33 and 49 weight percent with respect to the final copolymer** in any structure in general, and the reference fails to specifically disclose or render predictable such use in the body of a toothed belt specifically.

For at least the foregoing reasons, because Cicognani and Akiyama fail to disclose, either alone or in combination, a belt body comprising **nitrile groups in a percentage between 33 and 49 weight percent**, Applicants respectfully submit that independent claim 1 patentably distinguishes over Cicognani and Akiyama and is therefore allowable. Independent claims 25, 51, and 72 are similar, or somewhat similar, in scope to claim 1, and are therefore allowable for similar, or somewhat similar, reasons. Further, claims 2 and 3, which depend from claim 1, and claims 5 and 6, which depend from claim 4, are allowable as well.

The other claims presently pending claims are dependent from one of the claims discussed above and are therefore believed patentable for at least the same reasons. Because each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

Statements appearing above with respect to the disclosures in the cited references represent the present opinions of the Applicants and, in the event that the Examiner disagrees

with any such opinions, it is respectfully requested that the Examiner specifically indicate those portions of the respective reference providing the basis for a contrary view.

**CONCLUSION**

In view of the foregoing, it is believed that the present application is in condition for allowance. Accordingly, Applicants' attorneys respectfully request that a timely Notice of Allowance be issued in this case.

Please charge any fees incurred by reason of this response and not paid herewith to Deposit Account No. 50-0320.

Respectfully submitted,  
FROMMER LAWRENCE & HAUG LLP  
Attorneys for Applicants

By:   
Ronald R. Santucci  
Reg. No. 28,988

Frederick W. Dour  
Reg. No. 39,174

Telephone: (212) 588-0800  
Facsimile: (212) 588-0500